

**THE HON'BLE SRI JUSTICE B. PRAKASH RAO
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**

WRIT PETITION NO. 23175 OF 2006

Date: 15.12.2006

Between:

P. Naga Raju.

... Petitioner

and

Superintendent of Police, Kadapa, Kadapa District & another.

... Respondents.

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ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

Heard the learned counsel for the petitioner and the learned Government Pleader for Services I and, at their request, the main writ petition itself is taken up for disposal.

Aggrieved by the order of the Tribunal in O.A. No. 1629 of 2006 dated 28.09.2006 and the order in Review M.A. No. 3234 of 2006 dated 01.11.2006 the present writ petition is filed.

In O.A. No. 1629 of 2006, the Tribunal rejected the petitioner's request to be appointed as a Civil Police Constable in Kadapa District in the General non-local category on the basis of his merit pursuant to the proceedings of the Chairman of the State Level Recruitment Board, Andhra Pradesh dated 21.04.2003. In view of the facts and circumstances of the case, and having regard to the rules issued in A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) issue of community, nativity and date of birth certificates rules, 1997 the Tribunal directed the respondents to refer the matter to the District Collector for obtaining a report from the Scrutiny Committee for taking further action and to give its findings to the District Collector who was directed to pass orders about the genuineness or otherwise of the

certificate in question. The Tribunal held that on receipt of the findings of the Collector, the respondents were at liberty to take further action in the matter in accordance with law, if the certificate was found to be false and till such time the provisional selection of the applicant as Police Constable was directed not be cancelled. Aggrieved thereby, the petitioner filed Review M.A. No. 32334 of 2006, which was also dismissed.

Sri A. Hanumantha Reddy, learned Counsel for the petitioner, would refer to the averment in the counter-affidavit wherein the respondents had specifically stated that during verification of the petitioner-applicant's antecedents, it was found that he belonged to "Vada Baliya" but not "Vadde" caste and to confirm this fact the educational institution had been contacted and it was confirmed that he did not belong to "Vadde" caste and that he belonged to "Vada Baliya" caste. It is also stated in the counter-affidavit that the Mandal Revenue Officer, Kadapa had given a caste certificate that the petitioner-applicant belonged to "Vadde" caste and to reconfirm the fact, the District Special Branch had approached the Mandal Revenue Officer and that the Mandal Revenue Officer, Kadapa after enquiring into the matter, had given a report that the petitioner-applicant did not belong to "Vadde" caste and that he belonged to the "Baliya" caste.

Learned Counsel would also submit that, in the counter-affidavit filed before the Tribunal, the respondents herein had stated that the petitioner was provisionally selected to the post of Police Constable under the O.C. category subject to antecedents verification. Learned Counsel would submit that both "Vadde"

caste and “Vada Baliya” caste come under B.C-‘A’ category and whether the petitioner belongs to “Vadde” or “Vada Baliya” caste would make no difference in so far as his categorization for the purpose of reservation under Article 16 (4) of the Constitution of India was concerned. Learned Counsel would point out that the petitioner has not even claimed the benefit of reservation under B.C-‘A’ category and that he was provisionally selected for appointment under the O.C. category. Learned Counsel would submit that C.C. No. 56 of 2004 filed, based on the complaint filed in Cr. No. 71 of 2003 before the Kadapa Police Station against the petitioner herein, for offences under Sections 197, 198, 200, 417 and 420 IPC, with respect to the very same issue was dismissed by the Judicial Magistrate of I Class, Kadapa on 06.09.2005.

While it is always open to the respondents herein to proceed with the enquiry, in the peculiar facts and circumstances of the present case when both “Vadde” caste, which the petitioner is said to have represented that he belonged to, and “Vada Baliya” caste, which the respondents contend is the caste to which the petitioner belongs, come under B.C-‘A’ category and as it is admitted by the respondents themselves that the petitioner was selected under O.C. category and in the light of the fact that the criminal case filed against him, was dismissed by the Judicial Magistrate of I Class, Kadapa, we find no justification in the action of the respondents in not appointing the petitioner herein as a Police Constable pursuant to his provisional selection. It is not the case of the respondents that the petitioner was ineligible for appointment on any other ground. It is only on the ground of

verification of his actual social status that he has been denied employment. Both “Vadde” and “Vada Balija” caste not only come under the backward class category but they also fall under the same group “A”. In so far as a claim for benefits of reservation under B.C. “A” Category is concerned it matters little whether the petitioner belongs to “Vadde” caste or “Vada Balija” caste. Further, the petitioner was selected on merit under the O.C. category and not under the reserved category. His caste/social status is thus of no consequence in so far as his claim for appointment as a Police Constable is concerned. The only aspect which necessitates examination is whether the petitioner had deliberately misrepresented his caste while seeking appointment as a Police Constable. Since it is not even the case of the respondents that by misrepresenting his caste there was even a remote possibility of the petitioner getting some benefit, we see no reason why the petitioner’s appointment should be deferred pending enquiry into his social status. While leaving it open to the respondents to take action in accordance with law, depending on the outcome of the enquiry, we deem it appropriate to direct the respondents, in case the petitioner is found to have satisfied all other requirements, to take necessary steps to give effect to the earlier provisional selection issuing an order of appointment and sending the petitioner for training. The entire exercise in this regard shall be completed within two months from the date of receipt of a copy of this order. Needless to state that the appointment of the petitioner shall be subject to any further action which the respondents may take depending on the outcome of the

enquiry into the petitioner's social status.

The writ petition is allowed and the impugned orders of the Tribunal are set aside. However, in the circumstances, without costs.

B. PRAKASH RAO, J

Date: 15-12-2006

RAMESH RANGANATHAN, J

MRKR